

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 09-19-03.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The office visits with manipulation, myofascial release, ultrasound therapy, electric stimulation and hot and cold pack therapy were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 09-20-02 through 10-11-02 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 12th day of March 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division
DLH/dlh

NOTICE OF INDEPENDENT REVIEW DECISION

Date: March 10, 2004

MDR Tracking #: M5-04-0229-01

IRO Certificate #: 5242

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to ___ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Chiropractor who has ADL certification. The Chiropractor has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History

According to the documentation presented, the claimant allegedly injured his left posterior shoulder on ___ while lifting a stretcher as part of his normal occupational duty. He continued to work without restrictions. On 08/28/02 the claimant presented to the Neuromuscular Institute of Texas for evaluation and treatment. He was diagnosed with strain injury of the posterior, left shoulder and was treated 8 times from 09/12/02 through 10/11/02. Treatment consisted of ultrasound, electrical stimulation, hot/cold packs, soft tissue massage, and joint manipulation. The claimant was found to be at MMI on 10/23/02 with a 10% whole person impairment.

Requested Service(s)

I have been asked to present a decision regarding the medical necessity of office visits with manipulation, myofascial release, electrical stimulation, hot/cold packs, and ultrasound conducted from 09/20/02 through 10/11/02.

Decision

The office visit with manipulation performed on 10/11/02 was not medically necessary. All other treatments rendered to the claimant from 09/20/02 through 10/11/02 including other office visits with manipulation, myofascial release, electrical stimulation, hot/cold packs, and ultrasound were medically necessary.

Rationale/Basis for Decision

In regard to the office visits with manipulation, it is not customary for a 99213 level of evaluation/management to be performed on two consecutive dates of service. For the 10/09/02 service date this level of service was medically reasonable and necessary because two weeks had passed since the last treatment.

However, the documentation does not support or justify the same level of evaluation/management just two days later. In regard to the physiotherapeutic modalities, although all of the treatment rendered to the claimant was passive and five months had passed before he presented for treatment, his continued work without restriction during that five months could have caused persistent re-injury and inhibited healing. Also, at the onset of treatment, the claimant presented with more pain than dysfunction and the modalities and treatment frequency that were used over the following three weeks were appropriate approaches for pain relief.